

## SUBCHAPTER E—INSTITUTE OF MUSEUM AND LIBRARY SERVICES

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APPENDIX A TO PART 1180

AUTHORITY: 20 U.S.C. 961–968; Pub. L. 97–100, 95 Stat. 1414; Pub. L. 97–394, 96 Stat. 1994; 29 U.S.C. 794.

SOURCE: 48 FR 27728, June 17, 1983, unless otherwise noted.

**Subpart A—General Operating Support; Conservation Grants**

**§ 1180.1 Purpose of museum services program.**

The purpose of this program of Federal financial assistance is to ease the financial burden borne by museums as a result of their increasing use by the public and to encourage and assist them to carry out their educational and conservation roles as well as other functions and to modernize their methods and facilities.

**§ 1180.2 Scope of this document.**

This document establishes rules for the award of grants to museums from funds appropriated under the Museum and Library Services Act including rules governing the eligibility of applicant institutions, the type of assistance which may be provided, requirements which applicants must meet and criteria to be used in judging applications.

[48 FR 27728, June 17, 1983, as amended at 66 FR 47096, Sept. 11, 2001]

**§ 1180.3 Definition of museum.**

For the purpose of this part:

(a) *Museum means a public or private nonprofit institution which is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff:*

- (1) Owns or uses tangible objects, either animate or inanimate;
- (2) Cares for these objects; and
- (3) Exhibits them to the general public on a regular basis.

(i) An institution which exhibits objects to the general public for at least 120 days a year shall be deemed to meet this requirement.

(ii) An institution which exhibits objects by appointment may meet this requirement if it can establish, in light of the facts under all the relevant circumstances, that this method of exhibition does not unreasonably restrict the accessibility of the institution's exhibits to the general public.

(b) *Museum* includes (but is not limited to) the following institutions if they satisfy the provisions of this section:

- (1) Aquariums and zoological parks;
- (2) Botanical gardens and arboreta;
- (3) Nature Centers;
- (4) Museums relating to art, history (including historic buildings), natural history, science and technology; and
- (5) Planetariums.

(c) For the purposes of this section, an institution uses a professional staff if it employs at least one staff member, or the fulltime equivalent, whether paid or unpaid primarily engaged in the acquisition, care, or exhibition to the public of objects owned or used by the institution.

(d)(1) Except as set forth in paragraph (d)(2) of this section, an institution exhibits objects to the general public for the purposes of this section if such exhibition is a primary purpose of the institution.

(2) An institution which does not have as a primary purpose the exhibition of objects to the general public but which can demonstrate that it exhibits objects to the general public on a regular basis as a significant, separate, distinct, and continuing portion of its activities, and that it otherwise meets the requirements of this section,

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may be determined to be a museum under this section. In order to establish its eligibility, such an institution must provide information regarding the following:

(i) The number of staff members devoted to museum functions as described in paragraph (a) of this section.

(ii) The period of time that such museum functions have been carried out by the institution over the course of the institution's history.

(iii) Appropriate financial information for such functions presented separately from the financial information of the institution as a whole.

(iv) The percentage of the institution's total space devoted to such museum functions.

(v) Such other information as the Director requests.

(3) The Director uses the information furnished under paragraph (d)(2) of this section in making a determination regarding the eligibility of such an institution under this section.

(e) For the purpose of this section, an institution exhibits objects to the public if it exhibits the objects through facilities which it owns or operates.

[48 FR 27728, June 17, 1983, as amended at 50 FR 27587, July 5, 1985]

### § 1180.4 Other definitions.

The following other definitions apply in this document:

*Act* means the Museum and Library Services Act, Public Law 104-208 (20 U.S.C. 9101-9176).

*Board* means the National Museum Services Board established under Section 204 of the Act.

*Collection* includes objects owned, used or loaned by a museum as well as those literary, archival and documentary resources specifically required for the study and interpretation of these objects.

*Foundation* means the National Foundation on the Arts and the Humanities.

*Director* means the Director of the Institute of Museum and Library Services.

*Grantee* means the recipient of a grant under the Act.

*Institute* means the Institute of Museum and Library Services (IMLS) established under Section 203 of the Act.

*Museum services* means services provided by a museum, primarily exhibiting objects to the general public, and including but not limited to preserving and maintaining its collections, and providing educational and other programs to the public through the use of its collections and other resources.

### § 1180.5 Eligibility and burden of proof—Who may apply.

(a) A museum located in any of the fifty States of the Union, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, Guam, or the District of Columbia may apply for a grant under the Act.

(b) No museum is eligible to apply for funding available under the Act unless it has provided museum services, including exhibiting objects to the general public on a regular basis, for at least two years prior to application.

(c) A public or private nonprofit agency which is responsible for the operation of a museum may, if necessary, apply on behalf of the museum.

(d) A museum operated by a department or agency of the Federal Government is not eligible to apply.

(e) An applicant has the burden of establishing that it is eligible for assistance under these regulations.

(f) In a given year, a museum that has not received two consecutive General Operating Support awards in the immediately preceding two-year cycles is eligible to apply for General Operating Support.

[50 FR 27588, July 5, 1985, as amended at 60 FR 63964, Dec. 13, 1995]

### § 1180.6 Related institutions.

(a) If two or more institutions are under the common control of one agency or institution or are otherwise organizationally related and apply for assistance under the Act, the Director determines under all the relevant circumstances whether they are separate museums for the purposes of establishing eligibility for assistance under these regulations. See §§ 1180.5 and 1180.9.

(b) IMLS regards the following factors, among others, as showing that a

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related institution is a separate museum:

- (1) The institution has its own governing body;
- (2) The institution has budgetary autonomy; and
- (3) The institution has administrative autonomy.

### § 1180.7 General Operating Support.

In order to maintain, increase or improve museum services, a museum may apply for a grant under the Act to meet administrative, staff and operating costs, except as otherwise provided in these regulations.

### § 1180.8 Two-year grant period.

(a) IMLS makes General Operating Support grants for a period of twenty-four months beginning with the first month of the grant period.

(b) A museum that receives a General Operating Support grant in a Federal fiscal year may not apply for an additional General Operating Support grant in the succeeding Federal fiscal year.

*Example.* A museum applies for a General Operating Support grant in Federal fiscal year 1993. The museum receives a grant that it may use during the applicable 24-month grant period. The museum may not apply for an additional General Operating Support grant in Federal fiscal year 1994.

[57 FR 36905, Aug. 17, 1992]

### § 1180.9 Limitation on amount of General Operating Support grants.

(a) *General rule.* IMLS makes General Operating Support grants in an amount not to exceed the lesser of:

(1) the ceiling amount established under paragraph (b);

(2)(i) 15 percent of the applicant museum's non-Federal operating income for its most recently completed fiscal year that is prior to the Federal fiscal year in which the application is filed; or

(ii) \$7,500, if larger.

(b) *Ceiling amount.* The ceiling amount of a General Operating Support grant will be established through a notice published in the FEDERAL REGISTER. Beginning in FY 1993, the ceiling amount is \$112,500.

(c) *Statutory requirement.* Under section 206(c) of the Act, IMLS may not

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make a grant in excess of 50 percent of the annual cost of the program for which the grant is made. If the application of the \$7,500 limitation in paragraph (a)(2) of this section causes a General Operating Support grant to exceed 50 percent of the museum's annual operating income for the grant period in question, IMLS reduces the grant to that level in order to satisfy the statutory requirement.

(d) *Computation of non-Federal operating income.* For the purposes of this section, a museum may include in non-Federal operating income an amount reflecting the reasonable and conservative value of non-cash contributions to the museum in the applicable fiscal year.

*Examples.* The application of these rules is set forth in the following examples:

(1) In fiscal year 1993, a museum with calendar year 1991 operating income of \$5,000,000 applies to IMLS for a General Operating Support grant. Its application is approved. It may receive a grant of no more than \$112,500, the lesser of \$112,500 and \$750,000 which is 15 percent of the museum's non-Federal operating income.

(2) In fiscal year 1993, a museum with calendar 1991 operating income of \$700,000 applies to IMLS for a General Operating Support grant. Its application is approved. It may receive a grant of no more than \$105,000 the lesser of \$112,500 and 15 percent of the operating income which is \$105,000.

(3) In fiscal year 1993, a museum with calendar 1991 operating income of \$40,000 applies to IMLS for a General Operating Support grant. Its application is approved. It may receive a grant of no more than \$7,500, the larger of \$7,500 or 15 percent of the museum's operating income which is \$6,000. The grant satisfies the requirement of paragraph (c) (and the statute) that it not exceed 50 percent of the museum's operating income for that year.

[57 FR 36905, Aug. 17, 1992]

### § 1180.10 Allowable costs.

(a) Determination of costs allowable under a grant is made in accordance with government-wide cost principles in applicable OMB circulars. (OMB circular A-21 (educational institutions) February 26, 1979, published in 44 FR 12368 (March 6, 1979); OMB circular A-87 (State and local governments) January 15, 1981 published in 46 FR 9548 (January 28, 1981); and OMB circular A-122

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(Nonprofit organizations) June 27, 1980, published in 45 FR 46022 (July 8, 1980)).

(b) No costs shall be allowed for the purchase of any object to be included in the collection of a museum, except library, literary, or archival material specifically required for a designated activity under a grant under the Act.

### **§ 1180.11 Basic requirements which a museum must meet to be considered for funding.**

(a) *Application.* To apply for a grant, a museum must submit the designated application form containing the information requested in the form. Failure to submit the information required by the application at the time of filing can subject an applicant to rejection of the application without consideration on its merits.

(b) *IRS letter.* A museum applying as a private, nonprofit institution must submit a copy of the letter from the Internal Revenue Service indicating the applicant's eligibility for nonprofit status under the applicable provision of the Internal Revenue Code of 1954, as amended.

(c) *Financial statements.* (1) Each applicant museum must submit, with its application at the time of filing, *its* financial statements for the two fiscal years immediately preceding the fiscal year for which application is made or, if not available, for the second and third immediately preceding years. Each financial statement must include a statement of financial operations and if applicable, a balance sheet. Examples of a financial statement and a balance sheet may be found in the Museum Accounting Guidelines of the Association of Science-Technology Centers (1976) or in the Museum Accounting Handbook of the American Association of Museums (1978).

(2)(i) Every applicant which has previously received an IMLS award must submit its audited financial statement for the last fiscal year immediately preceding the fiscal year in which application is made or the immediately preceding fiscal year, prepared by an individual or organization meeting the qualifications of the Comptroller General of the United States for individuals or organizations conducting Government audits. Reference is made to

GAO, *Standards for Audit of Governmental Organizations, Programs and Functions* (1981 revision).

(ii) In the case of a museum which does not use cash basis accounting, the individual or organization performing the audit must offer an opinion that the financial statement of the museum presents fairly the financial position and the results of financial operations in accordance with generally accepted accounting principles. In the case of a museum which uses cash basis accounting, the individual or organization performing the audit must offer an opinion that the statement presents fairly (A) revenues collected and expenditures made and (B), where a balance sheet is involved, the assets, liabilities, and fund balances of the museum arising from cash transactions.

(3) If a museum is part of an organization such as a university, State or municipality and does not receive audits separate from those of the organization of which it is a part, it may submit its financial statement as drawn from and containing only audited figures of the organization of which the museum is a part. This financial statement, so prepared, must present fairly the financial position and the results of financial operations of the museum, and must clearly indicate that it has been so prepared and the Director *may*, upon written request filed at the time of the application, waive the requirement of a separate audit and proceed to process the application on its merits. Where the organization is not audited on an annual basis, the financial statement may be drawn from the most recent audited figures of the organization.

(4) The Director is authorized to defer the audit requirement set forth in paragraph (c)(2) of this section in the case of a museum with non-federal operating income of \$250,000 or less, exclusive of the value of non-cash contributions (in the fiscal period preceding the fiscal period for which the deferral is requested) if the Director finds that circumstances justify a deferral and that the grant of the deferral will not be inequitable to other applicants. A deferral may be granted only upon those conditions and in light of those assurances which the Director

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deems appropriate in order to ensure that the purposes of this paragraph are achieved. If the museum receives an award, the museum must submit audited financial statements no later than the end of the grant period for which the deferral is requested.

(d) *Long-range plans.* Each applicant museum must include long-range plans for program and financial development.

(Museum Services Act, sec. 206, as amended, 20 U.S.C. 965)

(Approved by the Office of Management and Budget under control number 3137-0015)

[48 FR 27728, June 17, 1983, as amended at 49 FR 14110, Apr. 10, 1984; 50 FR 27588, July 5, 1985; 51 FR 43354, Dec. 2, 1986; 55 FR 10461, Mar. 21, 1990; 59 FR 55593, Nov. 8, 1994]

### § 1180.12 How applications are judged.

(a) To select grantees and determine the amount of their awards. IMLS rates competitive applications under the applicable criteria stated in § 1180.13. Normally, these applications are first evaluated by field reviewers, panels of experts, or both. Final determinations as to the award of grants are made by the Director after review by the Board.

(b) To achieve diversity in the distribution of assistance, the Institute may consider the location, size and discipline of the applicant in addition to the criteria in § 1180.13.

[50 FR 27588, July 5, 1985]

### § 1180.13 Criteria for evaluation of applications for General Operating Support.

The following criteria apply to the evaluation of all applications for General Operating Support. In applying these criteria, the total operation of the applicant museum is assessed, including the museum's operation as it would be if the General Operating Support is granted. This assessment is based primarily on the information supplied in the museum's application.

(a) *Museum services.* Are the applicant's museum services of high quality? IMLS considers factors such as:

(1) The quality of the museum's educational and interpretive services and their relevance to the collections and audience including the special constituencies which the museum serves;

(2) The quality of the museum's physical facilities and the manner in which space is allocated to various museum activities; and

(3) The qualifications of the professional staff (both full-time and part-time; paid and volunteer) and the quality of the opportunities for professional staff development and in-service training afforded by the museum.

(b) *Collections and exhibits.* Are the museum's collections and exhibits of high quality and significance? IMLS takes into account such factors as:

(1) The intrinsic value of the collections and exhibits;

(2) The significance of the museum's collections to the community; and

(3) The quality of the care and conservation of the collections; the quality of exhibit designs.

(c) *Accessibility.* How accessible to the general public are the museum's services, collections and exhibits? IMLS considers such factors as:

(1) The percentage of the museum's collections on view to the general public on a regular basis; the extent of the museum's regular program for outreach, loans, and other means of exhibiting its collections to the public;

(2) The annual schedule of open hours for the museum; and

(3) The appropriateness of this schedule to the museum's audience.

(d) *Population served.* To what extent does the museum serve a general public which otherwise would have limited access to the type of museum services which it provides or to museum services of any type? To what extent does the public seek access to the museum's services? IMLS considers such factors as:

(1) The characteristics of the audience and the community which the museum serves;

(2) The availability of other museums (or types of museums) which serve this audience and this community; and

(3) The museum's annual attendance by calendar quarters.

(e) *Financial Management.* What is the quality of the financial management of the museum? In how many of the last five years has the museum shown an excess of revenues over expenditures? IMLS considers such factors as:

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(1) The financial condition of the museum as reflected in its financial statements;

(2) The quality of the museum's plans for remedying any financial weaknesses in the museum's operations; and

(3) The qualifications of the museum staff assigned to financial management activities.

(f) *Long-range plans.* What is the quality of the museum's long-range plans for financial and program development? What are the museum's plans for the expenditure of the grant funds? IMLS considers such factors as:

(1) The quality of the museum's long-range plans; how the museum proposes to implement them; how practical are the steps the museum plans to take to implement them?

(2) The probability that the General Operating Support grant, if awarded, will assist the museum in carrying out its long-range plans;

(3) In what manner will this grant, if awarded, contribute to maintaining, increasing or improving the museum's services?

(g) *Community commitment.* How committed to the museum are its users and supporters? Does the museum have a substantial base of non-Federal support? Does it have a strong volunteer program? IMLS considers such factors as:

(1) The quality and extent of the financial support that the museum receives from the private sector and other non-Federal sources and the extent to which this support is stable, broad-based and indicative of continuing community commitment;

(2) The quality of the museum's volunteer program and its program of in-kind contributions and their importance to the museum's annual operations; and

(3) The commitment of its users to the museum as evidenced by such factors as participation in membership and docent programs, fund raising and other supportive activities.

(h) *Non-Federal support.* To what extent, if any, will the General Operating Support requested enable the museum to increase its base of State, local and private funding in the year for which assistance is requested and beyond?

(i) *Past use of IMLS funds (when applicable).* Has the museum used its IMLS funds effectively? How and in what amounts and in what manner have they been used?

### § 1180.14 [Reserved]

### § 1180.15 Duration of grants.

The grantee may use grant funds during the period specified in the grant document unless the grant is suspended or terminated. If the grantee needs additional time to complete the grant, the grantee may apply for an extension of the grant period without additional funds. The Director may approve this extension at his or her discretion.

[57 FR 36905, Aug. 17, 1992]

### § 1180.16 Contributions, restricted accounts.

(a) For a particular fiscal year, and for one or more programs, the Director may determine that an amount equal to the amount to be awarded (or a percentage thereof) to an applicant under the Act must consist of non-Federal funds contributed to the museum in excess of the non-Federal funds contributed to the museum for its immediately preceding fiscal year.

(b) A museum shall maintain a restricted account for funds received under the Act.

[57 FR 36905, Aug. 17, 1992, as amended at 66 FR 47096, Sept. 11, 2001]

### § 1180.17 Reports.

In its final reports a grantee shall briefly detail how the expenditure of the grant funds has satisfied the proposed use of the funds as stated in its General Operating Support application or has accomplished the proposal as set forth in its application and has served the purpose of the Act as reflected in the applicable evaluation criteria in § 1180.13.

[60 FR 63964, Dec. 13, 1995]

### § 1180.18 Maintenance of effort.

A grantee must be able to demonstrate a continuing effort to maintain or increase its base of financial support during the fiscal year for which it receives a grant from IMLS. A grantee successfully demonstrates

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maintenance of effort if its non-federal operating income during the fiscal year of its award is at least equal to its non-federal operating income for its immediately preceding fiscal year.

[49 FR 14111, Apr. 10, 1984]

## § 1180.19 [Reserved]

### § 1180.20 Guidelines and standards for conservation projects.

(a) *Scope.* The guidelines and standards in this document apply to all aspects of the IMLS conservation grant program including the submission of applications by museums for conservation grants, to the award, review and approval of such applications by IMLS, and to the carrying out of conservation grants awarded by IMLS.

(b) *Applicability of regulations.* (1) Except as otherwise provided in these guidelines, subparts A-C of this part, part 1180 of Title 45 CFR, (45 CFR 1180.1-1180.58) (IMLS Grants Regulations), as amended, including §§ 1180.35, 1180.41, 1180.45, 1180.48, and 1180.49, apply to the IMLS conservation grant program.

(2) Sections 1180.11(d) does not apply. A museum which applies for a conservation grant need not submit a long-range plan.

(3) Section 1180.16(b), which provides for the maintenance of a restricted account, does apply to conservation grants.

(4) Section 1180.18 (relating to maintenance of effort) does not apply.

(5) In addition to submitting the final report required by § 1180.17, a grantee must submit an interim report in accordance with a schedule set forth in the grant award document. An applicant that has received a prior conservation grant from IMLS the performance of which has not been completed may be required to submit an additional performance report or submit an interim report early.

(c) *Definition.* As used in these guidelines, the term *conservation* includes, but is not limited to, the following functions, as applied to art, history, natural history, science and technology, and living collections:

(1) Technical examination of materials and surveys of environmental and collection conditions;

(2) Provision, insofar as practicable, of optimum environmental conditions for housing, exhibition, monitoring, reformatting, nurturing and transportation of objects;

(3) Physical treatment of objects, specimens and organisms, for the purpose of stabilizing, conserving and preserving their condition, removal of inauthentic additions or accretions, and physical compensation for losses; species survival activities; and

(4) Research and training in conservation.

(d) *Applicants.* Under the Museum and Library Services Act only a museum may receive a grant. (20 U.S.C. 9173(a)). See § 1180.3 of the IMLS regulations for the definition of "museum". A museum may apply for and receive only one conservation grant under this program in a fiscal year.

(e) *Types of conservation projects funded.* IMLS considers applications to carry out conservation projects such as:

(1) Projects to develop improved or less costly methods of conservation, or to maintain or improve conservation with respect to one or more collections, including—

(i) Projects involving surveys of conservation needs and

(ii) Projects to establish or maintain optimum environmental conditions.

(2) Projects to conduct research in conservation (including developmental and basic research).

(3) Projects to conduct or obtain training in conservation (including training of persons for careers as professional conservators; training or upgrading of practicing conservators and conservation technicians in the use of new materials and techniques; and training of persons to become conservation technicians).

(4) Projects related to museum conservation needs not regularly addressed by other Federal funding agencies.

(5) Projects to meet the conservation needs of museums which are unable to maintain their own individual conservation facilities. Because grants are made only to museums, organizations which operate regional conservation centers but which are not museums are ineligible for a direct grant. However, a museum or a group of museums may

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use a grant to obtain services from such a center.

(6) Projects to conserve particular objects in a museum's collection (including plants and animals) or to meet the conservation needs of a particular museum (through such activities as the employment of conservators and the procurement of conservation services or equipment).

(f) *Limits for Federal funding.* (1) The normal amount of a Conservation Project Support grant will be established through a notice published in the FEDERAL REGISTER. Beginning in FY 1996, the normal maximum amount is \$50,000. Unless otherwise provided by law, if the Director determines that exceptional circumstance warrant, the Director, consistent with the policy direction of the Board, may award a conservation grant which obligates an amount in Federal funds in excess of the normal maximum award. IMLS may establish a maximum award level for exceptional project grants for a particular fiscal year through information made available in guidelines or other material distributed to all applicants.

(2) A conservation grant is not included in the maximum amount which a museum may expect to receive from IMLS for a fiscal year, as set forth pursuant to §1180.9 of the regulations. Therefore, a museum may receive, for example, a General Operating Support grant for the amount specified pursuant to that section and an additional amount for a conservation grant in a fiscal year.

(3) IMLS makes conservation grants only on a matching basis. This means that at least 50 per cent of the costs of a conservation project must be met from non-federal funds. Principles in applicable OMB circulars regarding costs sharing or matching apply. See, e.g., OMB Circular A-102, Attachment F.

(g) *Application requirements; priorities; survey required in certain cases.* (1) Application requirements in §1180.11 (a), (b), and (c) apply. An application shall describe when, during the term of the grant, the applicant plans to complete each objective or phase of the project. Where appropriate, IMLS may require an applicant to submit a dissemination plan.

(2) The Director, by notice published in the FEDERAL REGISTER, may establish priorities with respect to all or part of the funds available to IMLS for conservation for a fiscal year among the types of projects specified in paragraph (e) of this section. If the Board establishes one or more types of projects as a priority for a fiscal year, applications proposing projects of that type (or types) are evaluated, ranked and (if recommended for funding) approved before applications proposing other types of projects.

(3) The Director may, to the extent appropriate, require (by instructions in the application materials) that an applicant which proposes a project to conserve particular objects must show that, prior to the submission of the application, it has carried out a general survey of its conservation needs and priorities and that the project in question is consistent with such survey. In exceptional circumstances, the Director may adjust this requirement, consistent with the policy direction of the Board. The Director may also (through such instructions) require an applicant for a conservation project to submit additional information, material, or undertakings to carry out the purposes of this part.

(h) *Procedures for review of applications.* (1) IMLS uses the procedures stated in this paragraph to review applications for conservation projects.

(2) IMLS evaluates all eligible applications for conservation projects in accordance with applicable criteria. (See paragraph (i) of this section.) The Director expects to use panels of experts to review at least a portion of the applications for conservation grants. Depending upon the number of applications received as well as other factors, the Director may also use field reviewers to evaluate applications before submission of applications to the panels. In addition, the Director may use technical experts to provide technical advice regarding certain applications. See generally §1180.12 of the IMLS regulations.

(3) IMLS evaluates applications for conservation projects separately from applications for general operating support.

(i) *Criteria.* This paragraph sets forth the criteria which IMLS uses in evaluating and reviewing applications for conservation grants. Panelists and field reviewers are instructed to use only these criteria in the evaluation and review of these applications.

(1) The following programmatic criteria apply to the evaluation and review of conservation grants:

(i) What is the importance of the object or objects to be conserved? What is the significance of the object or objects to the museum's collection and/or audience?

(ii) What is the need for the project, including the relationship of the project to the conservation needs and priorities of the applicant museum as reflected in a survey of conservation needs or similar needs assessment?

(iii) What are the applicant's plans to use and maintain the anticipated results or benefits of the project after the expiration of Federal support?

(iv) Does the applicant plan to devote adequate financial and other resources to the project without inhibiting its ongoing activities?

(2) The following technical criteria apply to the evaluation and review of applications for conservation grants:

(i) What is the nature of the proposed project with respect to project design and management plan?

(ii) To what extent does the application exhibit knowledge of the technical area to which the conservation project relates and employ the most promising or appropriate methods or techniques of conservation? To what extent is the conservation project likely to use, develop or demonstrate improved, more efficient, or more economic methods of conservation?

(iii) Does the project have an adequate budget to achieve its purpose? Is the budget reasonable and adequate in relation to the objectives of the project?

(iv) What are the qualifications of the personnel the applicant plans to use on the project and the proposed time that each such person is obligated to commit to the project?

(j) *Duration of grant.* IMLS makes a conservation grant under this section for a period of not to exceed two years.

(k) *Grant condition.* An applicant which has received a grant in a prior fiscal year under the IMLS conservation grant program may not receive a grant in a subsequent fiscal year under this section until required reports have been submitted regarding the performance of the previous grant.

(1) *Allowable and unallowable costs.* (1) Section 1180.10 of the IMLS regulations, which applies to conservation grants, sets forth the rules applicable to determining the allowability of costs under IMLS grants and refers readers to the OMB circulars containing applicable cost principles which govern Federal grants generally.

(2) In general such costs as compensation for personal services, costs of materials and supplies, rental costs, and other administrative costs specifically related to a conservation project are allowable under a conservation grant in accordance with applicable cost principles.

(3) Costs of alterations, repairs and restoration to an existing facility are allowable when they are related to a conservation project under a conservation grant in accordance with applicable cost principles.

(4) Costs of equipment are generally allowable if related to a conservation project but do require the specific approval of the Director as indicated in the grant award document.

(5) A grantee may award a stipend to an individual for training in connection with a conservation project. Stipends and allowances may be paid at rates and under conditions established by the Director consistent with policies of other agencies in the Foundation or other agencies or instrumentalities of the United States providing comparable assistance with respect to conservation.

(6) Costs of new construction are unallowable. For example, a museum may not use a conservation grant to construct a new building or an addition to an existing building to improve the environment in which its collections are housed.

[50 FR 27585, July 5, 1985, as amended at 51 FR 43353, Dec. 2, 1986; 56 FR 10178, Mar. 11, 1991; 57 FR 36905, Aug. 17, 1992; 60 FR 63964, Dec. 13, 1995; 66 FR 47096, Sept. 11, 2001]

## Subpart B—General Application, Selection and Award Procedures Applications

### APPLICATIONS

#### § 1180.30 Publication of an application notice; content of the notice.

Each fiscal year the Director publishes application notices in the FEDERAL REGISTER that explain what kind of assistance is available that fiscal year under the Act.

#### § 1180.31 Information in the application notice.

(a) The application notice usually includes:

- (1) How an applicant can get an application packet containing detailed information about the program including an application form;
  - (2) Where an applicant must send its application;
  - (3) The amount of funds available for grants;
  - (4) The approximate number of grants the Institute expects to make under the program;
  - (5) The expected cap on grant(s) that may be applied for;
  - (6) Any priorities established by the Institute for that year;
  - (7) A reference to the applicable regulations.
- (b) [Reserved]

#### § 1180.32 Deadline date for applications.

(a) The application notice sets deadline date for applications to be postmarked or hand delivered to the Institute. The applicant shall:

- (1) Mail the application to the address specified in the application notice on or before the deadline date; or
  - (2) Hand deliver the application to the address specified in the application notice by 4:30 p.m. (Washington, DC time) on deadline date.
- (b) An applicant must be prepared to show one of the following as proof of timely mailing:
- (1) A legibly dated U.S. Postal Service postmark.
  - (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other dated proof of mailing acceptable to the Director.

(c) If an application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing:

- (1) A private metered postmark.
- (2) A mail receipt that is not date cancelled by the U.S. Postal Service.

#### § 1180.33 Applicants must meet procedural rules.

The Director is authorized to make a grant only to an eligible applicant that submits a complete application, including attachments, on or before the deadline.

#### § 1180.34 Number of copies.

Each applicant shall submit an original and four copies of its application to the Institute.

#### § 1180.35 Group applications.

(a) Eligible museums may apply as a group for a project grant.

(b) If a group of museums applies for a grant, the members of the group shall either:

- (1) Designate one member of the group to apply for the grant; or
  - (2) Establish a separate, eligible legal entity, consisting solely of the museum group, to apply for the grant.
- (c) The members of the group, or entity, shall enter into an agreement that:

- (1) Details the activities that each member of the group plans to perform; and
  - (2) Binds each member of the group to every statement and assurance made by the applicant in the application.
- (d) The applicant shall submit the agreement together with its application.

(e) If the Director makes a grant to a group of eligible museums, the applicant for the group is the grantee and is legally responsible for:

- (1) The use of all grant funds; and
  - (2) Ensuring that the project is carried out by the group in accordance with applicable Federal laws, regulations, and requirements.
- (f) Each member of the group is legally responsible for:

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(1) Carrying out the activities it agrees to perform; and

(2) Using the funds it receives under the agreement in accordance with applicable Federal laws, regulations, and requirements.

[48 FR 27728, June 17, 1983, as amended at 60 FR 63964, Dec. 13, 1995]

### SELECTION AND AWARD PROCEDURES

#### § 1180.36 Rejection of an application.

(a) The Director rejects an application if:

- (1) The applicant is not eligible;
- (2) The applicant fails to comply with procedural rules that govern the submission of the application;
- (3) The application does not contain the information required;
- (4) The application cannot be funded under the authorizing statute or implementing regulations.

(b) If the Director rejects an application under this section, the Director informs the applicant and explains why the application was rejected.

#### § 1180.37 Rejection for technical deficiency—appeal; reconsideration; waiver.

(a) An applicant whose application is rejected because of technical deficiency may appeal such rejection in writing to the Director within 10 days of postmark of notice of rejection.

(b) If an application was rejected because material did not accompany the application, the Director shall reconsider the application upon receipt of material in a timely manner.

(c) As has always been the practice of IMLS, the Director waives the requirement in these regulations of certain records under circumstances which would require such waivers where the regulations specifically provide for waiver. (See § 1180.51(b) (Pub. L. 97–394))

#### § 1180.38 How grants are processed.

(a)(1) The Director may use one or more groups of experts or readers to evaluate eligible applications.

(2) Each group consists of three or more qualified persons.

(3) In each group there must be at least one person who is not an employee of the Federal Government.

(4) A person may not serve as a member of a group of experts or readers if the person is an employee of the Institute who is regularly involved in grants processing; however, the Director may sign a waiver for such person and that person may serve as a member of a group of experts or readers.

(b) When the director uses a group of experts or readers, the group of experts or readers uses the applicable evaluation criteria set forth in the Regulations to evaluate each application.

(c) After the groups of experts or readers have evaluated the applications, a rank ordering of the application is prepared. The rank ordering of the eligible applications is based solely on the evaluations of the applications by the groups of experts.

(d) Subject to § 1180.12, the Director, in consultation with the Board, then determines the order in which applications will be selected. The Director makes these determinations on the basis of the evaluation criteria and any priorities or other program requirements that have been published in the FEDERAL REGISTER. The Director may consider the following in making these determinations:

- (1) The application.
- (2) The rank ordering of the applications.
- (3) Any other information relevant to applicable criteria, priorities, or any other applicable information or requirements. (Cross reference. See § 1180.12)

#### § 1180.39 Applications not selected for funding.

If an application is not selected for funding, the Director informs the applicant.

#### § 1180.40 [Reserved]

#### § 1180.41 The cost analysis; basis for grant amount.

Before the Director sets the amount of a grant, a cost analysis of the project is made which involves an examination of:

- (a) The cost data in the detailed budget for the project;
- (b) Specific elements of cost; and

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(c) The necessity, reasonableness, and allowability under applicable statutes and regulations.

[60 FR 63964, Dec. 13, 1995]

### § 1180.42 The notification of grant award.

(a) The Director furnishes a notification of grant award to the grantee.

(b) The notification of grant award sets the amount of the grant and gives other information about the grant.

### § 1180.43 Effect of the grant.

The grant obligates both the Federal Government and the grantee to all of the requirements, regulations and statutes that apply to the grant.

## Subpart C—General Conditions Which Must Be Met by a Grantee

### NONDISCRIMINATION

### § 1180.44 Federal statutes and regulations on nondiscrimination.

(a) Each grantee shall comply with the following statutes:

Subject	Statute
Discrimination on the basis of race, color or national origin.	Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d through 2000d-4)
Discrimination on the basis of sex.	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1683).
Discrimination on the basis of handicap.	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).
Discrimination on the basis of age.	The Age Discrimination Act (420 U.S.C. 8101 et. seq).

(b)-(c) [reserved]

(d) *Regulations under section 504 of the Rehabilitation Act of 1973.* The Institute applies the regulations in 45 CFR part 1170, issued by the National Endowment for the Humanities and relating to nondiscrimination on the basis of handicap in federally assisted programs and activities, in determining the compliance of museums with section 504 of the Rehabilitation Act of 1973 as it applies to recipients of Federal financial assistance from the Institute. These regulations apply to each program or activity that receives such assistance. In applying these regulations, references to the *Endowment of the agency* shall be deemed to be references to the Institute and references

to the *Chairman* shall be deemed to be references to the Director.

[55 FR 51104, Dec. 12, 1990]

### § 1180.45 Use of consultants in Special Projects.

(a) Subject to Federal statutes and regulations, a grantee shall adhere to its general policies and practices when it hires, uses, and pays a consultant as part of the staff.

(b) The grantee may not use its grant to pay a consultant unless:

(1) There is a need in the project for the services of that consultant; and

(2) The grantee cannot meet that need through using an employee rather than a consultant.

[48 FR 27728, June 17, 1983, as amended at 60 FR 63964, Dec. 13, 1995]

### EVALUATION

### § 1180.46 Evaluation by the grantee.

A grantee shall evaluate at least semi-annually:

(a) The grantee's progress in achieving the objectives set forth in its approved application; and

(b) The contribution of the grant toward meeting the purposes of the Act.

### § 1180.47 Federal evaluation—Cooperation by a grantee.

A grantee shall cooperate in any evaluation by the Director of the particular grant program in which grantee has participated.

### PUBLICATIONS AND COPYRIGHTS

### § 1180.48 General conditions on publications.

(a) *Content of materials.* Subject to any specific requirements that apply to its grant, a grantee may decide the format and content of materials that it publishes or arranges to have published.

(b) *Required Statement.* The grantee shall ensure that any publication that contains materials also contains the following statement:

The contents of this (insert type of publication, e.g., book, report, film) were developed in whole or in part under a grant from the Institute of Museum and Library Services. However, the contents do not necessarily represent the policy of the Institute,

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and endorsement by the Federal Government should not be assumed.

[60 FR 63964, Dec. 13, 1995]

### **§ 1180.49 Copyright policy for grantees.**

A grantee may copyright materials in accordance with government-wide policy applicable to copyright of publications developed under Federal grants.

[60 FR 63964, Dec. 13, 1995]

### **§ 1180.50 Definition of “materials.”**

As used in §§1180.48 through 1180.49, materials means a copyrightable work developed in whole or in part with funds from a grant from the Institute.

[60 FR 63964, Dec. 13, 1995]

#### **GENERAL ADMINISTRATIVE RESPONSIBILITIES**

### **§ 1180.51 Compliance with statutes, regulations, and its approved grant application.**

(a) A grantee shall comply with applicable statutes, regulations, and the approved grant application, and shall use Federal funds in accordance therewith.

(b) No official, agent, or employee of the Institute may waive any regulation unless the regulation specifically provides for waiver.

(c) No act or failure to act by an official, agent, or employee of the Institute can affect the authority of the Director to enforce regulations.

(d) In any circumstance for which waiver is provided, the determination of the Director shall be final.

### **§ 1180.52 The grantee administers or supervises the grant.**

A grantee shall directly administer or supervise the administration of the grant and be answerable therefor.

### **§ 1180.53 Fiscal control and fund accounting procedures.**

A grantee shall exert fiscal control and employ fund accounting procedures that ensure proper disbursement of and accounting for Federal funds in accordance with OMB circulars A-102 and A-110.

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### **§ 1180.54 Obligation of funds during the grant period.**

A grantee may use grant funds for obligations it makes only during the grant period.

### **§ 1180.55 Prohibition of subgrants.**

(a) A grantee may not make a subgrant.

(b) A grantee may contract for supplies, equipment, and services subject to §1180.45(a).

#### **RECORDS**

### **§ 1180.56 Records related to grant funds.**

A grantee shall, in accordance with OMB circular A-102 and A-110, keep records that show accurately and in full:

(a) The amount of funds awarded under the grant;

(b) The exact uses of the funds;

(c) The total amount expended under the grant;

(d) The amount expended under the grant during the grant period provided from non-Federal sources; and

(e) Other records necessary to facilitate an effective audit.

### **§ 1180.57 Records related to compliance.**

A grantee shall, in accordance with OMB circulars A-102 and A-110, keep accurate and full records to show its compliance with specific requirements set forth in the regulations and published notices, or contained in the grant award documents.

### **§ 1180.58 Records related to performance.**

(a) A grantee shall keep records revealing progress and results under the grant.

(b) The grantee shall use the records under paragraph (a) of this section to:

(1) Determine progress in accomplishing objectives; and

(2) Revise those objectives, if necessary and authorized under the grant.

[60 FR 63965, Dec. 13, 1995]

### **§ 1180.59 Applicability.**

Subparts B and C (§§1180.30 through 1180.58) apply to General Operating

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Support assistance, except as otherwise provided in these regulations.

[60 FR 63965, Dec. 13, 1995]

### Subpart D—Museum Assessment

SOURCE: 50 FR 27588, July 5, 1985, unless otherwise noted.

#### § 1180.70 Purpose of program.

The Director of the Institute of Museum and Library Services makes grants under this subpart to assist museums in carrying out institutional assessments. The grants enable museums to obtain technical assistance in order to evaluate their programs and operations by generally accepted professional standards. The Director may make grants for separate categories of assessment activities and establish conditions for receipt of assistance for such separate categories. Such categories may include assessment activities relating to—

- (a) General operations;
- (b) Collections;
- (c) Museum security, and
- (d) Other aspects of museum services, as specified by the Board.

[51 FR 43354, Dec. 2, 1986]

#### § 1180.71 Eligibility.

(a) A museum as defined in § 1180.3 may apply for assessment assistance under this subpart.

(b) A museum which receives a grant for assessment assistance under this subpart for a fiscal year may not receive another grant for the same category of assessment assistance in the same or a subsequent fiscal year.

#### § 1180.72 Allowable costs.

A museum may use a grant under this subpart for expenses of institutional assessment, such as registration fees, surveyor honorariums, travel and other expense of a surveyor, and technical assistance materials.

#### § 1180.73 Form of assistance; limitation on amount.

(a) The Director makes payments to a museum under this subpart in advance.

(b) The amount of a grant to a museum under this subpart will be deter-

mined by the Director, in accordance with the policy direction of the Board regarding the maximum amount of a grant to be awarded for the various categories of assistance under this subpart and in consultation with the appropriate professional organization arranging for the assessment in question.

[50 FR 27588, July 5, 1985, as amended at 55 FR 10461, Mar. 21, 1990]

#### § 1180.74 Conditions of participation.

The Director considers an application by a museum on a form supplied by IMLS for a grant under this subpart for assessment assistance only if:

(a) The museum requests assessment from an appropriate professional organization as defined in this section, and

(b) That organization notifies IMLS that the request for the assessment assistance is complete and that the museum is eligible to participate. An appropriate professional organization for purposes of this subpart means: (1) The American Association of Museums or (2) other professional organizations that are determined to be capable of arranging for a program of assessment services for a category of museums and are so designated by notice published in the FEDERAL REGISTER.

#### § 1180.75 Funding and award procedures.

(a) The Director approves applications meeting the requirements of this subpart on first-come, first-served basis, in the order in which it is determined by IMLS that such requirements (including all application requirements) have been met.

(b) There are no selection criteria.

(c) Section 1180.16 (IMLS share of the cost of a proposal) does not apply to grants under this subpart.

(d) A museum receiving assistance under this subpart must submit a final financial and narrative report that evaluates the success of the assessment and actions taken by the museum as a result of the assessment. IMLS may request that the report be submitted up to 12 months after the close of the grant period.

(e)(1) Except as provided in § 1180.71 and paragraph (e)(2) of this section subparts A, B, and C of part 1180 of title 45

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CFR do not apply to the Museum Assessment Program.

(2) The following sections do apply to the Museum Assessment Program: Sections 1180.5(a); 1180.5(c); 1180.5(d); 1180.5(e); 1180.15; 1180.44; 1180.47; and 1180.51–1180.57.

[50 FR 27588, July 5, 1985, as amended at 60 FR 63965, Dec. 13, 1995]

### § 1180.76 Responsibility of a museum.

Except in unusual circumstances, a museum which receives a grant under this subpart must take the steps normally expected of it to complete the assessment process for which it has received assistance. Section 1180.13(i) (a criterion for evaluation of general operating support applications) applies to the use of funds under this subpart.

## Subpart E—Assistance To Professional Museum Organizations

### § 1180.77 Contracts and cooperative agreements with professional museum organizations.

(a) *Scope.* The guidelines and standards in this section apply to all aspects of the Institute's program to provide financial assistance, through contracts and cooperative agreements, to professional museum organizations for the carrying out of certain projects pursuant to section 206(b) of the Act.

(b) *Definitions.* For the purposes of this subpart, the term *professional museum organization* means a private, non-profit professional museum services-related organization, institution, or association which engages in activities designed to advance the well-being of museums eligible for assistance under this part and the museum profession through such activities as technical assistance, dissemination of information, professional development activities, and professional services.

(c) *Applicability of other regulations.* The following IMLS regulations apply to assistance under this subpart:

(1) Section 1180.3; § 1180.4; and § 1180.5(e) of subpart A and

(2) Sections 1180.30–1180.33 and §§ 1180.36–1180.39 of subpart B; and

(3) Section 1180.44, § 1180.46 and §§ 1180.51–1180.59 of subpart C.

(d) *Applicants.* (1) A professional museum organization may apply for as-

sistance through a contract or cooperative agreement under this subpart.

(2) A professional museum organization that serves museums or museum professionals at the national, regional, state, or local level may apply.

(3) An entity eligible for assistance under other subparts of this part 1180 may not apply.

(e) *Types of projects.* The Institute considers applications under this subpart to carry out projects designed to strengthen museum services such as:

(1) Programs to educate professionals in improved or innovative standards of museum operations or other matters relating to museum management;

(2) Research or surveys to determine effective and innovative methods to provide museum services or conduct operations;

(3) Projects to investigate the feasibility of cooperative methods for the carrying out by museums of management, storage, and information gathering and sharing, or other museum functions; or

(4) Research projects to help museums and museum associations serve their publics more effectively.

(f) *Limitation.* No financial assistance may be provided under this subpart to pay for the operational expenses of any professional museum organization.

(g) *Amount of contract or cooperative agreement.* The amount of contracts or cooperative agreements shall be subject to the availability of appropriations. Guidance on probable award ranges will be provided with application materials each year.

(h) *Matching.* A contract or cooperative agreement under this subpart for any fiscal year may not normally exceed 50 per centum of the cost of the project for which the contract or cooperative agreement is made. In exceptional circumstances applicable to a particular applicant, the Director, upon consultation with the Board, may waive this requirement pursuant to section 206(c) of the Act.

(i) *Application requirements.* (1) An applicant under this subpart must submit an application in such time and such manner, and containing such information, as requested by the Institute.

(2) An applicant must submit with its application its financial statements for



the two most recent fiscal years for which information is available. For applications requesting in excess of \$20,000, the Institute requests that one of those statements be audited.

(j) *Procedures for review of applications.* To evaluate applications and determine the amount of their awards, the Institute rates competitive applications under the applicable criteria stated in paragraph (k) of this section. Normally, these applications are evaluated by field reviewers, panels of experts, or both. The Director may also use technical experts in the review of applications. Final determinations as to the award of contracts or cooperative agreements are made by the Director after consultation with the Board with respect to policy matters.

(k) *Criteria.* This paragraph sets forth the criteria that the Institute uses in evaluating and reviewing applications for contracts or cooperative agreements under this subpart. Panelists and field reviewers are instructed to use only these criteria in the evaluation and review of these applications:

- (1) To what extent is the project likely to strengthen museum services?
- (2) To what extent does the project hold promise of exploring or developing effective and innovative solutions to problems affecting the provision of museum services or operations?
- (3) Has the need for the project been adequately documented?
- (4) What is the quality of the project design?
- (5) Does the project have an adequate budget to achieve its purpose?
- (6) What are the qualifications of the personnel the applicant plans to utilize in the project?
- (7) What are the anticipated long-term benefits of the project?

(l) *Limitation on number of applications.* An applicant may submit only one application with respect to each deadline.

[53 FR 31338, Aug. 18, 1988, as amended at 56 FR 10178, Mar. 11, 1991]

**§ 1180.78 Technical training and implementation grants to museums.**

(a) *Purpose of program.* The Director of the Institute of Museum and Library Services makes two-part grants under this subpart to assist those who work

in museums (paid or volunteer) to obtain training in technical areas of museum operations and to implement the training to improve museum services to the public.

(b) *Eligibility.* (1) To be eligible to apply for a grant under this subpart, a museum must:

- (i) Be a public or private nonprofit institution that is organized on a permanent basis for essentially educational or aesthetic purposes; and
- (ii) Care for, and own or use tangible objects, whether animate or inanimate, and exhibit these objects to the public on a regular basis through facilities which it owns or operates, and
- (iii) Have at least one staff member, whether paid or unpaid, full-time or part-time, whose primary responsibility is the acquisition, care or exhibition to the public of objects owned or used by the museum; and
- (iv) Be open and providing museum services to the general public on a regular basis; and
- (v) Be located in one of the fifty States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or Palau (until its compact of free association is approved.)

(2) A museum must have an operating budget for the fiscal year immediately preceding the deadline to which the museum applies of no more than \$250,000 exclusive of non-cash support.

(3) Museum includes (but is not limited to) the following institutions if they satisfy the provisions of this section:

- (i) Aquariums and zoological parks;
- (ii) Botanical gardens and arboreta;
- (iii) Nature centers;
- (iv) Museums relating to art, history (including historic buildings and sites);
- (v) Natural history, science and technology, planetariums, and specialized subject.

(4) A museum that receives a grant for training and implementation under this subpart for a fiscal year may not receive another grant under this subpart for the same or subsequent fiscal years.

(5) Preference for funding will be given to a museum that has not received any grants from the Institute within two years of the deadline to which it applies over funding for a museum that has received a grant from the Institute within two years of application.

(c) *Applicability of other regulations.* The following sections in part 1180 do apply to grants for training and implementation under this subpart: Sections 1180.3(d), 1180.4, 1180.5(c)–(e), 1180.6, 1180.10, 1180.11(a)–(b), 1180.16(b), 1180.30–34, 1180.36–37, 1180.39, 1180.42–44, 1180.47–48, 1180.51–57, part 1183, part 1185.

(d) *Application requirements.* (1) An applicant under this subpart must submit an application in such time and such manner, and containing such information, as requested by the Institute.

(2) An applicant must submit with its application financial information for its most recently completed fiscal year for which satisfactory information is available and projected financial information for the fiscal year(s) that includes the time of the grant period.

(e) *Procedures and criteria for review of applications.* (1) To evaluate applications and determine the amount of their awards, the Institute rates competitive applications under the criteria stated in paragraph (e)(2) of this section. Normally, these applications are evaluated by field reviewers, panels of experts, or both. The Director may also use technical experts in the review of applications.

(2) This paragraph sets forth the criteria the Institute uses in evaluating and reviewing applications for technical training and implementation grants under this subpart. Evaluators are instructed to use only these criteria in the evaluation of these applications.

(i) Does the museum demonstrate its importance to the community it serves?

(ii) Is the type of training requested appropriate to the purpose or mission of the museum?

(iii) Are the costs requested to obtain the training reasonable and necessary?

(iv) Is the training needed at the museum?

(v) Is the staff member(s) (paid or volunteer) identified to receive the

training the appropriate person(s) within the museum's organizational structure?

(vi) Does the individual(s) identified for training demonstrate at least a two-year commitment to the museum field?

(vii) Does the museum demonstrate a commitment to implement the training?

(f) *Allowable costs.* (1) A museum may use a grant under this subpart for expenses to obtain training in areas of museum operations and for activities to implement the training.

(2) Funds may be used to pay for registration or tuition fees for training courses or workshops. Individual(s) may use the grant funds to pay for a course that is part of a degree-granting program only for non-credit such as to audit the course.) Funds are generally not intended to support attendance at association annual meetings unless a specific training session or workshop is part of the meeting (or as a pre or post conference activity). A course of study that is identified by clearly and specifically named sessions that are part of an annual meeting program and that clearly and specifically address the area of training need will be considered.

(3) Funds may be used for travel to and from training activities and expenses incurred during travel, such as housing and meals.

(4) Funds may be used to purchase instructional materials.

(5) Funds may not be used to pay the salary of the person(s) receiving the training. The time the staff member(s) expends to obtain the training and to implement the training is considered a matching, in-kind contribution to the grant activities.

(6) Funds may not be used for consulting fees. (In special cases where training is not available otherwise, the Institute may consider an individually designed training agenda that includes the use of a consultant clearly serving as a trainer to the applicant in specific areas of museum operations.)

(7) Funds may be used to purchase supplies, materials, and equipment for areas of museum operations for which training was received.

(8) Funds may support additional travel as needed to implement training (eg. travel to libraries, archives, etc. to document collections).

(g) *Conditions of participation.* Following the completion of the training activity the museum must submit an implementation plan to the Institute for review before implementation funds are released. The implementation plan must indicate the time frame for implementation activities, the personnel involved, the activities to be completed, where the activities will take place, and the costs for implementing the plan.

(h) *Form of assistance: Limitation of amount.* (1) The Director makes payments to a museum under this subpart in advance.

(2) The amount of the grant to a museum will be determined by the Director, in accordance with the policy direction of the Board, regarding the maximum amount available for each part of the grant. The amount of the grant will be subject to the availability of funds.

(i) *Reporting requirements.* The museum receiving a grant for training and implementation under this subpart must submit a final financial and narrative report that evaluates the success of the applicant in meeting the stated goals and any plans to continue activities in the area of training.

(j) *Limitation on number of applications.* A museum may submit only one application for each deadline.

(k) *Duration of grant.* (1) Grants made under this subpart generally permit the grantee to use the funds for a period of up to 24 months from the start of the grant period. The grantee may use grant funds during the period specified in the grant document unless the grant is suspended or terminated.

(2) If the grantee needs additional time to complete the grant, the grantee may apply for an extension of the grant period without additional funds. The Director may approve this extension at his or her discretion.

[59 FR 15344, Apr. 1, 1994, as amended at 66 FR 47086, Sept. 11, 2001]

## Subpart F [Reserved]

## Subpart G—Meetings of the National Museum Services Board

### GENERAL

**AUTHORITY:** Museum Services Act (20 U.S.C. 961–68), as amended, and Pub. L. 97–100, 95 Stat. 1414; Pub. L. 97–394, 96 Stat. 1994; 5 U.S.C. 552b.

**SOURCE:** 49 FR 3184, Jan. 26, 1984, unless otherwise noted.

### § 1180.80 Scope.

5 U.S.C. 552b, added to the United States Code by the Government in the Sunshine Act, Public Law 94–409 (1976), provides that collegial bodies which head Federal agencies must, with certain exceptions, hold their meetings in public. Section 552b applies to meetings of the National Museum Services Board (“NMSB”). The regulations in this document (subpart G of part 1180, title 45 CFR) set forth procedures for the conduct of meetings of the NMSB in accordance with Section 552b.

### § 1180.81 General rule.

Unless properly closed under § 1180.88, every portion of every meeting of the NMSB is open to public observation. For the purposes of this document a *meeting* means the deliberations of at least the number of members of the NMSB required to take action on behalf of the NMSB, where these deliberations determine, or result in the joint conduct or disposition of official IMLS business. (A *meeting* does not include deliberations required or permitted by subsection (d) or (e) of section 552b.)

### § 1180.82 Application to NMSB committees.

This document applies to committees of the NMSB when they are authorized to make final policy decisions on the NMSB’s behalf. This document does not apply to committees or informal working groups of the NMSB which are authorized to make recommendations or reports to the NMSB or to perform technical or ministerial functions on its behalf.

## § 1180.83

### § 1180.83 Record vote.

(a) Certain action of the NMSB with regard to meetings under these regulations may be taken only by “record vote.” For purposes of this document, a vote of the NMSB is a *record vote* if—

(1) It carries by a majority of all those holding offices as NMSB members at the time of the vote;

(2) No proxies are counted toward the necessary majority; and

(3) The individual vote of each member voting is recorded.

(b) Within one day of a record vote to close, or withhold information about a meeting, or any record vote for this purpose that does not achieve the necessary majority, the NMSB makes available to the public a written record showing the vote of each member.

(c) The NMSB may take a vote with respect to matters governed by this part (without convening) by means of circulation of a written ballot, tally sheet, or other notation procedures.

#### ANNOUNCEMENT OF MEETINGS

### § 1180.84 Public announcement of meetings.

(a) Except as stated in paragraphs (b) and (c) this section, the NMSB makes a public announcement of each meeting at least one week before the meeting. The announcement covers:

(1) The time, place, and subject matter of the meeting;

(2) What portions of the meeting, if any, are to be closed to the public; and

(3) The name and phone number of the official designated to respond to requests for information on the meeting.

(b) The announcement may be made less than a week before the meeting it announces or after the meeting only if—

(1) The NMSB by record vote determines that agency business requires the meeting to be called on such short or after-the-fact notice and (2) a public announcement is made at the earliest practicable time.

(c) All or any portion of the announcement of any meeting may be omitted if the NMSB by record vote determines that the announcement would disclose information which should be withheld under the same standards as

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apply for closing meetings under § 1180.88.

### § 1180.85 Changes in time or place of meeting.

The time or place of a meeting of the NMSB that has been publicly announced as provided in § 1180.84 may subsequently be changed. However, the change must be publicly announced at the earliest practicable time.

### § 1180.86 Changes in subject matter of meeting.

The subject matter of any portion of any meeting of the NMSB that has been publicly announced as provided in § 1180.84 (or the determination whether any portion of any meeting so publicly announced will be open or closed) may subsequently be changed if—

(a) The NMSB determines by record vote that agency business so requires and that no earlier announcement of change was possible; and

(b) The NMSB publicly announces the change and the vote of each member on the change at the earliest practicable time. (Deletion or postponement of agenda items are not subject to the requirements of this section.)

### § 1180.87 Publication of announcements.

Promptly following a public announcement required by these regulations, the NMSB submits, for publication in the FEDERAL REGISTER, a notice containing information regarding the announcement as required by section 552b.

#### CLOSED MEETINGS

### § 1180.88 Reasons and procedures for closing meetings.

(a) The NMSB may, by record vote in accordance with section 552b, close any portion of a meeting if it determines that the portion falls within one of the exceptions stated in 5 U.S.C. section 552(c). (These exceptions are listed in Appendix A.)

(b) In making a determination under paragraph (a) of this section, the NMSB considers whether the public interest merits keeping the meeting open although an exception applies.

(c) The Board addresses requests for the certification required by section 552b to the individual responsible for providing legal services to the Institute with respect to section 552b.

(d) Within one day of a record vote closing a portion of a NMSB meeting, the NMSB makes available a full written explanation of the NMSB's action and a list of all persons it expects to attend the meeting and their affiliations.

**§ 1180.89 Requests to close meetings.**

A person who believes his or her interests may be directly affected by a meeting or a portion of a meeting may request the NMSB to close it to the public for a reason cited in paragraphs (5), (6), or (7) of Appendix A. Such requests are handled under procedures established by the NMSB in accordance with section 552b. This information collection has been assigned OMB No. 3137-0005.

**§ 1180.90 Materials related to closed portions of meetings.**

If a portion or portions of any meeting of the NMSB are closed to the public—

(a) The presiding officer of the meeting (usually the Chairman of the NMSB) furnishes a statement setting forth the time and place of the meeting and the persons present (including staff).

(b) Except where the Act authorizes minutes to be kept, the NMSB makes a complete transcript or electronic recording adequate to record fully the proceedings of each portion of the meeting that is closed to the public.

(c) The NMSB maintains the presiding officer's statement, the certificate described in § 1180.88(c) as required by section 552b, and the transcript, recording, or minutes of the meeting for at least two years after the meeting and at least one year after the NMSB completes consideration of any proposal, report, resolution, or similar matter discussed in any closed portion of the meeting.

**§ 1180.91 Opening of transcript or recording of closed meeting.**

(a) Except as stated in paragraph (b) of this section, the NMSB makes avail-

able for inspection the transcript, electronic recording or minutes of every portion of a very closed meeting on request to any member of the public. The transcript or recording is made available in an easily accessible place. The NMSB furnishes to any member of the public on request copies of the transcript (or of a transcription of the recording) disclosing the identity of each speaker. The NMSB charges for the copies or transcriptions no more than the actual cost of duplication or transcription.

(b) The NMSB withholds the transcripts or recording of the discussion of any agenda item if the Chairman of the NMSB (or a NMSB member designated by the Chairman) determines that the discussion contains information which should be withheld under the same standards which apply for closing meetings under § 1180.88. The NMSB releases the transcript or recording so withheld when the Chairman (or the Chairman's designee) determines that the grounds for withholding no longer apply.

**APPENDIX A TO PART 1180**

A meeting may be closed if:

(1) It is likely to disclose matters that (i) are specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to the Executive Order;

(2) It is likely to relate solely to the internal personnel rules and practices of the IMLS or another Federal agency;

(3) It is likely to disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That the statute (i) requires that the matter be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) It is likely to disclose trade secrets and commercial or financial information obtained from the person and privileged or confidential;

(5) It is likely to involve accusing any person of a crime, or formally censuring any person;

(6) It is likely to disclose personal information where the disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) It is likely to disclose investigatory law-enforcement records, or information which, if written, would be contained in such

records, but only to the extent provided in 5 U.S.C. 552b(7);

(8) It is likely to disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) It is likely to disclose information, the premature disclosure of which (i) in the case of information received from an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or (ii) be likely to significantly frustrate implementation of a proposed IMLS action unless the IMLS has already disclosed to the public the content or nature of its proposed action or is required by law to make such disclosure on its own initiative before taking final action; or

(10) Is likely to specifically concern the IMLS participation in a civil action or proceeding, or action in a foreign court or international tribunal, or an arbitration.

## **PART 1181—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES**

### **Sec.**

1181.101 Purpose.

1181.102 Application.

1181.103 Definitions.

1181.104–1181.109 [Reserved]

1181.110 Self-evaluation.

1181.111 Notice.

1181.112–1181.129 [Reserved]

1181.130 General prohibitions against discrimination.

1181.131–1181.139 [Reserved]

1181.140 Employment.

1181.141–1181.148 [Reserved]

1181.149 Program accessibility: Discrimination prohibited.

1181.150 Program accessibility: Existing facilities.

1181.151 Program accessibility: New construction and alterations.

1181.152–1175.159 [Reserved]

1181.160 Communications.

1181.161–1181.169 [Reserved]

1181.170 Compliance procedures.

1181.171–1181.999 [Reserved]

AUTHORITY: 29 U.S.C. 794.

SOURCE: 51 FR 4578 and 4579, Feb. 5, 1986, unless otherwise noted.

### **§ 1181.101 Purpose.**

This part effectuates section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

### **§ 1181.102 Application.**

This part applies to all programs or activities conducted by the agency.

### **§ 1181.103 Definitions.**

For purposes of this part, the term—  
*Assistant Attorney General* means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

*Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

*Complete complaint* means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

*Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.